

## National Transportation Safety Board

## § 821.54

service of the Board's order on appeal from the law judge's initial decision or order.

(c) *Content.* The petition shall state briefly and specifically the matters of record alleged to have been erroneously decided, and the ground or grounds relied upon. If the petition is based, in whole or in part, upon new matter, it shall set forth such new matter and shall contain affidavits of prospective witnesses, authenticated documents, or both, or an explanation of why such substantiation is unavailable, and shall explain why such new matter could not have been discovered in the exercise of due diligence prior to the date on which the evidentiary record closed.

(d) *Repetitious petitions.* Repetitious petitions will not be entertained by the Board, and will be summarily dismissed.

(e) *Reply to petition.* Any other party to the proceeding may file a reply to the petition within 15 days after the date on which the petition was served on that party. A copy of such reply shall simultaneously be served on the petitioner and any other parties to the proceeding.

(f) *Stay of effective date of Board's order.* The filing of a petition under this section shall operate to stay the effective date of the Board's order, unless the Board directs otherwise.

### Subpart I—Special Rules Applicable to Proceedings Involving Emergency and Other Immediately Effective Orders

#### § 821.52 General.

(a) *Applicability.* This subpart shall apply to any order issued by the Administrator under 49 U.S.C. 44709 as an emergency order, as an order not designated as an emergency order but later amended to be an emergency order, and any order designated as immediately effective or effective immediately.

(b) *Effective date of emergency.* The procedure set forth herein shall apply as of the date on which written advice of the emergency character of the Administrator's order is received and docketed by the Board.

(c) *Computation of time.* Time shall be computed in accordance with the provisions of § 821.10.

(d) *Waiver.* Except as provided in § 821.54(f), or where the law judge or the Board determines that it would unduly burden another party or the Board, a certificate holder (respondent) affected by an emergency or other immediately effective order of the Administrator may, at any time after filing an appeal from such an order, waive the applicability of the accelerated time limits of this subpart; however, such a waiver shall not serve to lengthen any period of time for doing an act prescribed by this subpart which expired before the date on which the waiver was made.

#### § 821.53 Appeal.

(a) *Time within which to file appeal.* An appeal from an emergency or other immediately effective order of the Administrator must be filed within 10 days after the date on which the Administrator's order was served on the respondent. The respondent shall simultaneously serve a copy of the appeal on the Administrator.

(b) *Form and content of appeal.* The appeal may be in letter form. It shall identify the certificate or certificates affected and indicate that an emergency or other immediately effective order of the Administrator is being appealed.

#### § 821.54 Petition for review of Administrator's determination of emergency.

(a) *Time within which to file petition.* A respondent may, within 2 days after the date of receipt of an emergency or other immediately effective order of the Administrator, file with the Board a petition for review of the Administrator's determination that an emergency, requiring the order to be effective immediately, exists. This 2-day time limit is statutory and the Board has no authority to extend it. If the respondent has not previously filed an appeal from the Administrator's emergency or other immediately effective order, the petition shall also be considered a simultaneously filed appeal from the order under § 821.53.

(b) *Form, content and service of petition.* The petition may be in letter